



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

August 2, 2023

Mr. James Sherk
America First Policy Institute
1001 Pennsylvania Avenue NW
Suite 530
Washington, DC 20004

Re: Freedom of Information Act Request Nos. EPA-R1-2022-006090; EPA-R2-2022-006091; EPA-R3-2022-006092; EPA-R4-2022-006093; EPA-R5-2022-006094; EPA-R6-2022-006095; EPA-R7-2022-006103; EPA-R8-2022-006104; EPA-R9-2022-006105; EPA-R10-2022-006106; EPA-2022-006107; EPA-2022-006108; EPA-2022-006109; EPA-2022-006110; EPA-2022-006111; EPA-2022-006112; EPA-2022-006113; EPA-2022-006114; EPA-2022-006116; EPA-2022-006117, Final Response.

Dear Mr. Sherk:

This letter concerns your submission of the above-referenced FOIA requests. Specifically, this letter concerns EPA-HQ-2022-006110, received by the U.S. Environmental Protection Agency (EPA or Agency) on August 16, 2022.

EPA has provided you with one (1) interim release on March 15, 2023. This release is the second (2nd) and final release for your FOIA request.

Disposition

Granted In Full. The records, in their entirety, may be released to the requester.

Partial Grant/Partial Denial. Portions of the record will be withheld from the requester if covered by either one or multiple FOIA exemptions. The portions of the record that are not redacted are released to the requester.

Denial. The record, in its entirety, will be withheld from the requester if covered by either one or multiple FOIA exemptions.

Description of Records

The Agency has concluded its search for records responsive to your request and is issuing a final response to your request. The records EPA is releasing include emails from the three most senior career officials in EPA's Office of Enforcement and Compliance Assurance (OECA) between

October 1, 2020 and January 31, 2021, which are responsive to your request and subsequent request clarifications.

Some documents responsive to your request have been partially withheld. The reasons for the withholdings are printed over the redactions. Records are being withheld pursuant to: The Deliberative Process Privilege, § 552(b)(5); the Attorney Client Privilege, § 552(b)(5); the Attorney Work Product Privilege, § 552(b)(5); Personal Privacy; § 552(b)(6); Law Enforcement Interfere with Enforcement Proceedings, § 552(b)(7)(a); Protection for Personal Information in Law Enforcement § 552(b)(7)(c); and Law Enforcement Techniques and Procedures, § 552(b)(7)(e).

The EPA is releasing 343 records in full. The EPA is withholding 55 records in part under FOIA Exemption 5 deliberative process privilege. These records include internal EPA discussions which are deliberative. The EPA is withholding 47 records in part under FOIA Exemption 5 attorney-client privilege. These records include confidential communications between an attorney and client concerning legal advice. The EPA is withholding 49 records in part under FOIA Exemption 5 attorney-work product privilege. These records include documents prepared by or at the direction of an attorney in anticipation of litigation. The EPA is withholding 34 records in part under FOIA Exemption 6 Privacy. These records contain information about individuals, when disclosure, "would constitute a clear unwarranted invasion of personal privacy such as cell phone numbers, email addresses, personnel and medical files and similar files. The EPA is withholding 1 record in part under Exemption 7(a) related to an ongoing enforcement case. This record contains information compiled for law enforcement purposes, but only to the extent that production of such law enforcement records or information...could reasonably be expected to interfere with enforcement proceedings.". The EPA is withholding 1 record in part under Exemption 7(c) Privacy. This record contains personal information in law enforcement records. The EPA is withholding 4 records in part under Exemption 7(e) Law Enforcement Techniques and Procedures. These records provide protection to all law enforcement information that "would disclose techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected risk circumvention of the law."

The EPA is withholding 6 documents in full under FOIA Exemptions 5 and Exemption 7(c). These documents include records internal EPA discussions which are deliberative and personal information in law enforcement records.

The records are available at this link: [EPA-2022-006110](https://www.epa.gov/foia/epa-2022-006110).

Please also note that this is the final response to this specific request. EPA may still be processing records responsive to your other requests. EPA has considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.

Some records responsive to your requests may been released under different tracking numbers, which are listed at the top of this letter. To immediately access those released records, either follow the web address below and search for the listed requests or click the requests that contain

embedded hyperlinks. FOIAonline system is found at:
<https://www.foiaonline.gov/foiaonline/action/public/home>.

- [EPA-R1-2022-006090](#)
- [EPA-R2-2022-006091](#)
- [EPA-R3-2022-006092](#)
- [EPA-R4-2022-006093](#)
- [EPA-R5-2022-006094](#)
- [EPA-R6-2022-006095](#)
- [EPA-R7-2022-006103](#)
- [EPA-R8-2022-006104](#)
- [EPA-R9-2022-006105](#)
- [EPA-R10-2022-006106](#)
- [EPA-2022-006107](#)
- [EPA-2022-006108](#)
- [EPA-2022-006109](#)
- [EPA-2022-006110](#)
- [EPA-2022-006111](#)
- [EPA-2022-006112](#)
- [EPA-2022-006113](#)
- [EPA-2022-006114](#)
- [EPA-2022-006116](#)
- [EPA-2022-006117](#)

Final Appeal Rights and Contact Information

This letter concludes our response to your request. You may appeal this determination by email at hq.foia@epa.gov, or by mail to the EPA's National FOIA Office, U.S. EPA, 1200 Pennsylvania Avenue, N.W. (2310A), Washington, DC 20460 or through FOIAonline if you are an account holder. If you are submitting your appeal by hand delivery, courier service, or overnight delivery, you must address your correspondence to 1200 Pennsylvania Avenue, N.W., WJC-N Building, Room 7309C, Washington, DC 20460.

Your appeal must be in writing, and it must be received no later than 90 calendar days from the date of this letter. The Agency will not consider appeals received after the 90-calendar-day limit. Appeals received after 5:00 p.m. EST will be considered received the next business day. The appeal letter should include the FOIA tracking number listed above. For quickest possible handling, the subject line of your email, the appeal letter, and its envelope, if applicable, should be marked "Freedom of Information Act Appeal."

If you need any further assistance or would like to discuss any aspect of your request, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or call (202) 566-1667. You may also seek assistance from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD

20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877) 684-6448; or fax: (202) 741-5769. For all media inquiries, please contact press@epa.gov.

Please contact Antoinette Powell-Dickson, of my staff at (202) 564-5136, if you have any questions regarding this response.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenda Layne". The signature is fluid and cursive, with the first name "Kenda" and last name "Layne" clearly distinguishable.

Kenda Layne
Deputy Director
Office of Administration and Policy
Office of Enforcement and Compliance
Assurance